

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P. O. Box 7599  
Loveland, Colorado 80537-0599

ATTORNEY DOCKET NO. 10021090-1

RECEIVED  
CENTRAL FAX CENTER

FEB 10 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Phillip W. Barth

Serial No.: 10/693,064

Examiner: Trung Q. Dang

Filing Date: October 23, 2003

Group Art Unit: 2823

Title: APPARATUS AND METHOD FOR MAKING A LOW CAPACITANCE ARTIFICIAL NANOPORE

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria VA 22313-1450

## TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

☒ Response/Amendment☐ Petition to extend time to respond☐ New fee as calculated below☐ Supplemental Declaration☒ No additional fee (Address envelope to "Mail Stop Amendments")

(Fee \$ \_\_\_\_\_)

☐ Other:

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X 50	\$ 0
INDEP. CLAIMS		MINUS		= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 360	\$ 0
EXTENSION FEE	1 <sup>ST</sup> MONTH 120.00 <input type="checkbox"/>	2 <sup>ND</sup> MONTH 450.00 <input type="checkbox"/>	3 <sup>RD</sup> MONTH 1020.00 <input type="checkbox"/>	4 <sup>TH</sup> MONTH 1590.00 <input type="checkbox"/>	OTHER FEES	
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

Respectfully submitted,

Phillip W. Barth

By

\_\_\_\_\_  
Bret E. Field for Timothy Joyce  
Attorney/Agent for Applicant(s)

Reg. No. 37,620

Date: 02-10-2005

Telephone No. (650) 485-4310

I hereby certify that this paper is being facsimile  
transmitted to the Patent and Trademark Office on  
the date shown below:

Date of facsimile: 02-10-2005

Typed Name: Donna Macado

Signature: Donna Macado

Rev 10/04 (Trans/Amend)

VIA FACSIMILE 703 872 9306		
<b>RESPONSE TO RESTRICTION REQUIREMENT</b>  Address to: Commissioner for Patents P.O. Box 1450 Arlington VA 22313-1450	Attorney Docket Confirmation No.	10021090-1 2224
	First Named Inventor	Phillip W. Barth
	Application Number	10/693,064
	Filing Date	October 23, 2003
	Group Art Unit	2823
	Examiner Name	Trung Q Dang
	Title	Apparatus and Method for Making a Low Capacitance Artificial Nanopore

Dear Sir:

This communication is responsive to the office communication dated January 11, 2005.

In the above referenced office communication, the Examiner imposed a restriction requirement, requiring the election of the claims of either:

Group I, i.e., Claims 1-26; or

Group II, i.e., Claims 27-34;

for further prosecution in this application.

The Applicants hereby elect **Group I with traverse**.

The Applicants also respectfully urge the Examiner to rejoin the claims of Group II with the elected claims of Group I for examination in this application for the following reasons.

The MPEP allows an Examiner to examine otherwise patentably distinct sets of claims if to so would not impose an undue burden on the Examiner. M.P.E.P. § 8.03 states that:

**If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.**

Agilent Ref: 10021090-1  
United States Application Serial No. 10/693,064

In the present case, the claims of Group II include elements found in the claims of Group I. As such, the search for the claims of Group I will find relevant prior art relating to the claims of Group II.

Accordingly, little, if any, additional searching should be required for the claims of Group II, and therefore the examination of the claims of Group II together with the claims of elected Group I should impose little, if any, additional burden on the Examiner.

As such, examining the claims of Group II and the claims of elected Group I together in the present application clearly does not impose an undue or serious burden on the Examiner. In the absence of such an undue or serious burden, the Examiner is clearly instructed by the MPEP to examine the entire application. Therefore, the Examiner is respectfully requested to rejoin the claims of Group II with the claims of elected Group I and to examine all the claims together in the present application.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078.

Respectfully submitted,

BOZICEVIC, FIELD & FRANCIS LLP

Date: February 10, 2005

By: 

Bret E. Field  
Registration No. 37,620

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, Colorado 80537-0599

F:\DOCUMENT\AGIL\275 (10021090-1)\10021090-1 response to restriction requirement.doc